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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding
Revisions to the California Universal
Telephone Service (LifeLine) Program

Rulemaking 11-03-013

**ASSIGNED COMMISSIONER RULING TEMPORARILY MODIFYING
60-DAY BENEFIT PORTABILITY FREEZE AND REQUESTING COMMENT
ON THE BENEFIT PORTABILITY FREEZE FOR THE CALIFORNIA
LIFELINE PROGRAM**

Summary

This Assigned Commissioner Ruling (ACR) temporarily modifies the benefit portability freeze for the California LifeLine Program (California LifeLine) reducing the duration from 60 days to 24 hours and temporarily suspends the exceptions to the California LifeLine benefit portability freeze. These temporary measures shall go into effect on March 19, 2018 until the Commission directs otherwise or issues a final decision.

This ACR also seeks parties' comments on questions detailed below. Opening comments shall be filed no later than 20 days from issuance of this ACR and reply comments shall be due five days from the last day of the opening comments.

Background

On April 27, 2016, the Federal Communications Commission (FCC) issued *In the Matter of Lifeline and Link Up Reform and Modernization et al., WC Dkt Nos. 11-42, 09-197, Third Report and Order, Further Report and Order, and*

Order on Reconsideration, FCC 16-38 (rel. April 27, 2016) (2016 Lifeline Modernization Order) making significant changes to the federal Lifeline program, including as relevant here, implementing a benefit portability freeze. The California Legislature then passed Assembly Bill (AB) 2570, now codified as Public Utilities (Pub. Util.) Code Section 878.5, that required the California Public Utilities Commission (Commission) to adopt a portability freeze rule. On January 25, 2017, the Commission issued Decision (D.) 17-01-032 that implemented a benefit portability freeze.¹

The Commission adopted a 60-day portability freeze for the California LifeLine Program (California LifeLine) as follows:

1. California LifeLine participants must remain with the same California LifeLine service provider for 60 days in order to continue to receive California LifeLine discounts unless the California LifeLine participant qualifies for at least one of the exceptions to the benefit portability freeze;
2. After 60 days, the California LifeLine participant may choose to switch to a different California LifeLine service provider or remain with the same California LifeLine service provider; and
3. The 60-day benefit portability freeze duration applies to consumers with approved eligibility status who are receiving California LifeLine discounted telephone services. A California LifeLine participant who has completed the 60-day benefit portability freeze duration

¹ See D. 17-01-032 at 22-32.

would no longer be subject to the benefit portability freeze unless the California LifeLine participant switched to another California LifeLine service provider, at which time, the 60-day benefit portability freeze duration would begin anew.

The Commission also adopted certain exceptions to the 60-day benefit portability freeze period if:

1. The subscriber changes residence;
2. The provider ceases operation or otherwise fails to provide service;
3. The provider has imposed late fees for non-payment related to the supported service(s) greater than or equal to the monthly end-user charge for service;
4. The provider is found to be in violation of the FCC's rules during the benefit year and the subscriber is impacted by such violation; and
5. The provider is found to be in violation of one or more of the California Public Utilities Commission's or the California LifeLine Program's rules and the California LifeLine participant was impacted by such violation.

On December 1, 2017, the FCC issued *Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking and Notice of Inquiry*, WC Dkt Nos. 17-287, 11-42, 09-0197, FCC 17-155 (rel. December 1, 2017) (2017 Lifeline Reconsideration Order) which eliminated the federal Lifeline benefit portability freeze for voice and broadband services. The FCC stated that it was eliminating the benefit portability freeze to encourage competition and to decrease administrative burdens. The FCC

concluded that the benefit portability freeze ultimately failed to yield improved service offerings and instead, disadvantaged consumers by unnecessarily restricting consumer choice, diminishing service providers' motivation to offer competitive service offerings, and preventing consumers from obtaining the services that they need.² The 2017 Lifeline Reconsideration Order states that the record evidence does not show that a 12-month benefit portability freeze is necessary to ease market entry and could discourage new providers from entering the federal Lifeline market. The elimination of the federal Lifeline program's benefit portability freeze will become effective on March 19, 2018, which is 60 days after publication in the Federal Register.³

Questions for Comment

As a result of the FCC's action rescinding the 60-day benefit portability freeze for federal Lifeline services, the corresponding 60-day benefit portability freeze for California LifeLine should be reexamined. The Commission seeks the input of parties to this rulemaking regarding the 60-day benefit portability freeze, including but not limited to the following aspects:

1. Should California LifeLine retain the 60-day benefit portability freeze?

² See 2017 Lifeline Reconsideration Order, ¶¶ 34-38.

³ *Id.* at ¶ 40; See also <https://www.federalregister.gov/documents/2018/01/16/2018-00152/bridging-the-digital-divide-for-low-income-consumers-lifeline-and-link-up-reform-and-modernization>.

2. Should the 60-day benefit portability freeze be modified, and if so, what modifications should the Commission consider?
3. Should the 60-day benefit portability freeze be eliminated, and if so, what legal obstacles does the Commission face?
4. Are there administrative issues that California LifeLine service providers would face if the Commission modified or eliminated the 60-day benefit portability freeze?
5. Does changing or eliminating 60-day benefit portability freeze impact the California LifeLine Program's Administrator, and if so, how?
6. Are there other aspects the Commission should consider related to the 60-day benefit portability freeze in determining whether to retain, modify or eliminate the freeze?

Temporary Modification to California LifeLine Benefit Portability Freeze

The Commission wants to ensure that eligible telecommunications carriers in California continue to receive federal Lifeline support worth about \$223 million for year 2015.⁴ Enabling low-income households to maximize the support received from both the state and federal programs is in the public interest. We take three additional key steps toward that goal. First, the Commission recently filed a petition for a temporary waiver with the FCC requesting a four-month extension of time, through July 15, 2018, to comply with

⁴ See FCC's Monitoring Reports, <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>, specifically, the 2016 Monitoring Report, Table 1.9 at 19.

the recent elimination of the federal benefit portability freeze. This would provide time for the Commission to undergo the state's regulatory processes to determine what changes are needed for California LifeLine. Second, by this ACR, we temporarily reduce the California LifeLine Program's benefit portability freeze duration from 60 days to up to 24 hours until the Commission can consider the comments requested by this ACR and issue a proposed decision addressing the benefit portability freeze. In light of the reduction of the duration of the benefit portability freeze from 60 days to up to 24 hours, we also temporarily eliminate the exceptions to the benefit portability freeze to simplify administration. These temporary modifications shall go into effect on March 19, 2018 until the Commission directs otherwise or issues a final decision.

California LifeLine Service Providers shall file a Tier 1 advice letter within 10 days of the issuance of this ruling, with an effective date of March 19, 2018, to only delete the references to the 60-day freeze and the exceptions. California LifeLine Service Providers should also remove references to the 60-day freeze and the exceptions in their marketing or consumer education materials.

California LifeLine Service Providers can send an e-mail to CaLLmarketing@cpuc.ca.gov confirming that they have removed references to the 60-day freeze and exceptions in their marketing or consumer education materials. Neither the California LifeLine Administrator nor California LifeLine Service Providers need to educate consumers about the benefit portability freeze duration now lasting up to 24 hours. Lastly, by March 19, 2018, the California

LifeLine Administrator shall implement the changes necessary to comply with this ACR.

Finally, subsequent to receipt of the comments and reply comments requested by this ACR, we will issue a proposed decision for public comment to address the California LifeLine benefit portability freeze. It is our intent to issue this decision within 120 days of the receipt of reply comments requested by this ACR.

Opening comments responsive to the future of the 60-day benefit portability freeze must be filed no later than 20 days from issuance of this ACR. Reply Comments shall be due five days from the last day of filing opening comments.

IT IS SO RULED:

Dated March 16, 2018 at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner